

REMARKS

Applicant gratefully acknowledges the Examiner's comments in the outstanding Office Action. A request for a two-(2) month Extension of Time under 37 C.F.R. 1.136(a) to respond to the outstanding Office Action is being included herewith along with the appropriate fee. Moreover, Applicant is attaching herewith a Change of Correspondence Address Form PTO/SB/122.

In the outstanding Office Action, the Examiner rejected claims 1-7, 10-14 and 16-20 under 35 USC 103(a) as being obvious in view of a number of cited references. In addition, the Examiner objected to claims 8, 9 and 15 as being dependent on rejected base claims but stated that these claims would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

In response to this, Applicant has herewith canceled claims 5 and 8 and amended claim 1 to include all the limitations of allowable claim 8 along with the limitations of the intervening claim 5. In addition, Applicant has cancelled claims 12, 13 and 15 and has amended independent claim 11 to include all the limitations of allowable claim 15 along with the limitations of intervening claims 12 and 13. As a result, claim 1 now represents claim 8 rewritten in independent form, and claim 11 represents claim 15 rewritten in independent form. Accordingly, claims 1 and 11, as amended, are allowable along with the remaining claims dependent thereon.

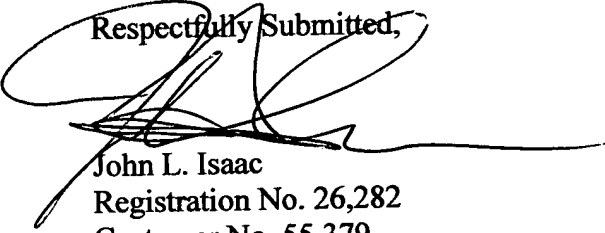
Claim 21 is a new claim that includes the limitations of original claim 1 as well as addition limitations which emphasize the claimed feature that the cloth member of the present invention that attaches the audio elements in selectively movable positions within the cavity thereof is itself an elastic, washable and stretchable member. Contrary to the comments by the Examiner, none of the references disclose or suggest this feature. The Schultz headband which attaches the audio elements is not elastic. Instead, the headband is made from a non-stretchable fabric, and the ski mask band, which passes through the headband carrying the audio elements, is

in fact the elastic member. If the headband of Schultz was in fact elastic, the attachment members 32-33 would not function properly. In addition, the Spatus headband is made from a "fashionable and breathable fabric". Elastic elements 26 at the rear on the band 14 provide flexibility and head size adjustability for Spatus, not the headband member 14 itself as in the present invention. If the headband of Spatus were elastic, then the elements 26 would be unnecessary. Consequently, none of the references, including Schultz and Spatus, disclose an elastic headband that is itself washable, elastic and attaches the audio elements at variable positions within the headband interior as claimed in new claims 21 and 22. Therefore, new claims 21 and 22 are not obvious under 35 USC 103 in view of the cited references.

Accordingly, Applicant contends that independent claims 1 and 11, as amended, claims 2-4, 6, 7, 9, 10 and 14 which are dependent therefrom, and new claims 21 and 22, are all patentable over the cited references, and Applicant requests reconsideration and allowance of the subject application as amended.

Date: March 12, 2007

Law Office of John L. Isaac
7114 W. Jefferson Ave., Suite 100
Lakewood, Colorado 80235-2309
Telephone: 720-962-9300
Fax: 720-962-9361
Email: john@isaaclaw.com

Respectfully Submitted,

John L. Isaac
Registration No. 26,282
Customer No. 55,379
Attorney for Applicant